

REMARKS

Claims 1-48 are all the claims pending in the application. By this Amendment, Applicant editorially amends claims 1-3, 47, and 48. The amendments to claims 1-3, 47, and 48 were made for reasons of precision of language and consistency, and do not narrow the literal scope of the claims and thus do not implicate an estoppel in the application of the doctrine of equivalents. The amendments to claims 1-3, 47, and 48 were not made for reasons of patentability.

Summary of the Office Action

The Examiner allowed claims 41-46. The Examiner, however, objected to claims 1 and 48 for minor informalities. In addition, the Examiner maintained the rejection of claims 1-40 and rejected the previously added claims 47 and 48, under 35 U.S.C. § 103(a).

Claim Objections

The Examiner objected to claims 1 and 48 because of minor informalities. Applicant has revised the claims, and respectfully submits that the claims as now presented no longer include the potential informalities mentioned by the Examiner. Applicant therefore respectfully requests the Examiner to withdraw this objection to claims 1 and 48.

Claim Rejections and Statement of Substance of Interview

Applicant thanks the Examiner for the courteous in person interview on October 25, 2004. An Examiner's Interview Summary Record (PTO-413) was given to the Applicant's Representative on October 25, 2004. The PTO-413 requires applicant to file a Statement of Substance of the Interview. The Statement of Substance of the Interview is as follows:

During the Interview, independent claim 1 was discussed in view U.S. Patent No. 6,507,814 to Gao (hereinafter “Gao”) and U.S. Patent No. 5,960,389 to Jarvinen et al. (hereinafter “Jarvinen”). An agreement was reached. In particular, the Examiner agreed that the combined teachings of Gao and Jarvinen do not render at least claim 1 unpatentable. Therefore, the Examiner has agreed to perform another search and to issue a Notice of Allowance or a new Non-Final Office Action depending on the results of such search.

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

Briefly, in response to this Office Action, Applicant respectfully submits that the combination of Gao and Jarvinen does not teach or suggest a number of unique features of claims 1. For example, Gao and Jarvinen taken alone or in any conceivable combination do not teach or suggest “limiting the value of the smoothed gain based upon an amount of fluctuation calculated from the gain and the smoothed gain,” as recited in the independent claim 1.

Prior to the Interview, the Examiner alleged that Jarvinen teaches this exemplary feature of claim 1. Jarvinen, however, teaches comparing the difference between an excitation gain and an excitation gain median to a threshold, and replacing the excitation gain value that exceeds the threshold. Jarvinen, however, fails to teach or suggest using the gain value before the smoothing in limiting the value of the smoothed gain. That is, in Jarvinen, in replacing an excitation gain for values exceeding the threshold, only this excitation gain and the median of this excitation gain is used. Jarvinen does not teach or suggest taking into account the gain value before the smoothing in limiting the smoothed gain. In other words, Jarvinen cannot prevent excessive smoothing by balancing the value before the smoothing and the value after smoothing. In short,

Jarvinen does not teach or suggest limiting the value of the smoothed gain based on the amount of fluctuation calculated from the gain and the smoothed gain.

Therefore, “limiting the value of the smoothed gain based upon an amount of fluctuation calculated from the gain and the smoothed gain,” as set forth in claim 1 is not taught or suggested by the combined teachings of Gao and Jarvinen, which lack using the gain and smoothed gain in limiting the value of the smoothed gain. Based on at least the foregoing exemplary reason, Applicant respectfully submits that the combination of Gao and Jarvinen fails to disclose all of the claimed elements as arranged in claim 1. Therefore, the combination of Gao and Jarvinen clearly cannot render the present invention as recited in claim 1, obvious, as acknowledged by the Examiner during the Interview. Thus, Applicant respectfully requests that the Examiner to reconsider and to withdraw this § 103(a) rejection of claim 1.

Independent claims 2, 3, 15-17, 27-29, 47, and 48 recite similar features to the ones argued above with respect to claim 1, therefore, these arguments are submitted to apply with equal force herein. For at least this exemplary reason, Applicant respectfully submits that claims 2, 3, 15-17, 27-29, 47, and 48 are allowable, and respectfully requests the Examiner to withdraw this rejection of the claims. Claims 4-14, 18-26, and 31-40 are patentable at least by virtue of their dependency on independent claims 1-3, 15-17, and 27-29.

Allowable Subject Matter

Applicant thanks the Examiner for allowing claims 41-46. Applicant does not acquiesce to any inferences or presumptions drawn from the Examiner’s statement regarding the reasons for allowance.

Amendment under 37 C.F.R. § 1.116
U.S. Application No.: Q09/699,435

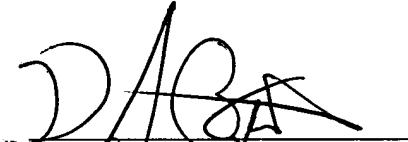
Attorney Docket No.: Q61542

Conclusion and request for telephone interview

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Howard L. Bernstein
Registration No. 25,665

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: November 19, 2004

Interview Summary

NOV 19 2004
U.S. PATENT & TRADEMARK OFFICE

Application No.

09/699,435

Applicant(s)

MURASHIMA, ATSUSHI

Examiner

James S. Wozniak

Art Unit

2655

All participants (applicant, applicant's representative, PTO personnel):

(1) James S. Wozniak(3) Chid Iyer 43,355

RECEIVED

(2) Susan McFadden(4) Natalyn Duerson

NOV 22 2004

Date of Interview: 10/25/2004

Technology Center 2600

Type: a) Telephonic b) Video Conference
c) Personal [copy given to: 1) applicant2) applicant's representative]Exhibit shown or demonstration conducted: d) Yese) No.

If Yes, brief description: _____

Claim(s) discussed: 1.Identification of prior art discussed: Gao, JarvinenAgreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: discussed how the prior art is different from the claim limitation regarding the limiting of a smoothed gain based on a fluctuation between a current unsmeared gain and a smoothed gain.
 (A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.